

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DYMATIZE ENTERPRISES, INC.,

Plaintiff,

v.

MAXIMUM HUMAN PERFORMANCE, INC.,

Defendant.

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Civil Action No. 3:09-CV-1840-O-BH

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the undersigned District Judge is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

The portion of the Magistrate Judge's Findings, Conclusions, and Recommendation related to Defendants' motion to dismiss Defendant Gerard Dente for lack of personal jurisdiction is governed by 28 U.S.C. § 636(b)(1)(B). A district court shall perform a de novo review of such findings and recommendations. In this case, no objections were filed to these findings and recommendations. In any event, after a de novo review, the Court concludes the Magistrate Judge's findings and conclusions are correct.

The portion of the Magistrate Judge's Findings, Conclusions, and Recommendation related to Defendant's motion to transfer venue is governed by 28 U.S.C. § 636(b)(1)(A). A district court may reconsider matters decided by a magistrate judge under § 636(b)(1)(A) where a party shows that the magistrate judge's order is clearly erroneous or contrary to law. Defendants have objected to

Magistrate Judge Ramirez's application of the facts of this case to the appropriate legal factors for determining whether a change of venue is appropriate. *See* Doc. # 23. Having reviewed the Findings, Conclusions, and Recommendation, this Court agrees that Defendants failed to carry their burden to show that transfer of the case is warranted under 28 U.S.C. § 1404(a). Accordingly, the recommendation of Judge Ramirez on this matter is neither clearly erroneous nor contrary to law.

For the reasons stated in the Findings, Conclusions, and Recommendation, Defendants' motion to transfer, filed October 29, 2009, should be **DENIED** and their alternate motion to dismiss the action against defendant Gerard Dente for lack of personal jurisdiction should be and is hereby **GRANTED**.

SIGNED this **16th** day of **March, 2010**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE